

United States Court of Appeals
For the Eighth Circuit

No. 13-3389

United States of America,

Plaintiff - Appellee,

v.

Andre M. Miller,

Defendant - Appellant.

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: May 7, 2014

Filed: May 20, 2014

[Unpublished]

Before MURPHY, COLLOTON, BENTON, Circuit Judges.

PER CURIAM.

Andre Miller directly appeals after he pled guilty to one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), and

the district court¹ sentenced him as an armed career criminal under 18 U.S.C. § 924(e) and imposed a 180-month prison term. Miller's counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Miller has filed a pro se supplemental brief. Both counsel and Miller challenge the district court's determination that Miller's prior convictions for felony resisting arrest qualified as predicate offenses for purposes of sentencing him as an armed career criminal under section 924(e).

Upon careful review of the record and the arguments in the briefs, we conclude that the district court did not err in sentencing Miller as an armed career criminal. See 18 U.S.C. § 924(e) (if § 922(g) offender has three prior convictions for violent felony or serious drug offense committed on occasions different from one another, term of imprisonment shall be not less than fifteen years); United States v. Dunning, 666 F.3d 1158, 1166 (8th Cir. 2012) (de novo review of district court's determination that convictions for resisting arrest were violent felonies; Missouri felony resisting-arrest conviction qualifies as violent felony for purposes of sentencing defendant as armed career criminal); see also Brown v. United States, 636 F.3d 674, 676 (2d Cir. 2011) (per curiam) (Guidelines provision governing computation of criminal history does not bear on calculation of defendant's sentence as armed career criminal).

In addition, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw, subject to counsel informing Miller about procedures for seeking rehearing or filing a petition for certiorari.

¹The Honorable Beth Phillips, United States District Judge for the Western District of Missouri.